

In their unpublished Fourth Appellate Court decision there is no mention of denial of procedural due process. The Supreme Court formally recognized that where state courts deny procedural due process, the Rooker-Feldman Doctrine does not apply, Pennzoil Co. v. Texaco Inc., 481 U.S. 1 at 18, and Catz v. Chalker, 142 F.3d 279, 295 (6th Cir. 1998).

On page 6, respondent cites two Ninth Circuit cases, World Church of God v. Mc Nare, 805 F.2d 888 (9th Cir. 1986) and Allah v. Superior Court (Doeve), 871 F.2d 887 (9th Cir. 1988).

Both Mc Nare and Allah were decided prior to Pennzoil and Catz. Pennzoil was decided by this court on 1987.

Three years later Mc Nare and Allah was decided, this court also established a 1983 Civil Rights action when the various states denied United States Citizens Procedural Due Process, Zinerman v. Burch, 494 U.S. 113, 118, 124-127, 108 LEd 2d 100, 110 S.Ct. 975 (1990).

REASON FOR GRANTING REVIEW

The respondent has clearly shown this court in their opposition that there is lots of cases where the Rooker-Feldman Doctrine is being used to try to deny Procedural Due Process Rights under the Fourteenth Amendment to the Constitution. Recently this court excepted Procedural Due Process cases from the Rooker-Feldman Doctrine, *Exxon Mobile Corp. v. Saudi Basic Industries Corp.* 544 U.S. 280, ___, 161 LEd 2d 454, 464, and 467, 125 S.Ct. 1517 (2005). This case (Rooker-Feldman) should be limited in its use or should be overturned in its entirety, so as not to deny any further legal rights of the citizens of the United States or visitors to this country. The case at bar has shown that there is a lot of conflict between the systems of how the Rooker-Feldman Doctrine is being misquoted.

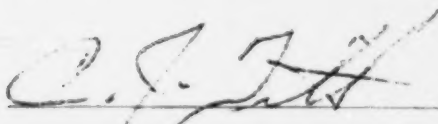
CONCLUSION

For all the reason stated in this reply, the records on file and the original petition. The petition directly effects Procedural Due Process Rights and will help keep the Constitution intact for the people by the people. The

Petition For Writ Of Certiorari should be granted.

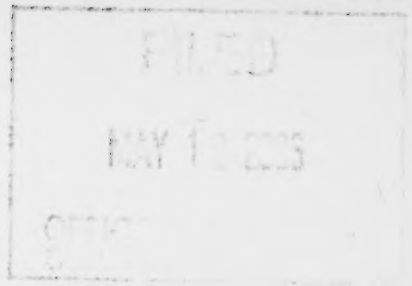
March 12, 2006

Respectfully Submitted

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CHARLES J. TITTLE, In Pro Se

(2)



CASE NO.: 05-985

IN THE SUPREME COURT OF THE UNITED
STATES

CHARLES J. TITTLE
Petitioner and Appellant

vs.

Dorothy D. Bottorff-Tittle, et al
Respondents and Appellees

ON WRIT OF CERTIORARI TO THE UNITED
STATES OF APPEALS FOR THE 9TH CIRCUIT

PETITION FOR REHEARING

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TABLE OF AUTHORITIES

FEDERAL CASES

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<u>Washington</u> , 407 F.3d at 280	7

CALIFORNIA CASES

<u>Agarwal v. Johnson</u> (1979) 25 Cal. 3d 932, 954	4
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Hernandez v. City of Pomona et al,
(Cert. For publication copy
Apr. 11, 2006, case B182437,
Cal. Second Appellate Dis., Div. 7) 2

FEDERAL STATUES

42 U.S. Code, section 1983 3

PETITION FOR REHEARING
(Sup. Ct. R. 44-2)

Appellant / petitioner presents his petition for a rehearing of the above-entitled cause, and, in support of it, respectfully shows:

GROUNDS FOR REHEARING

A rehearing of the decision in the matter is in the best interest of justice and public at large for the following reason:

1. On April 17, 2006, this court denied the petitioner's writ of certiorari.
2. This court summary denied the petitioners' writ of certiorari without any stated opinion. Therefore, this denial left the petitioner to guess at what this court is thinking of the issues of this case.
3. The denial of the writ was a great surprise to the petitioner. Petitioner had fully and completely stated his concerns of the issues of this case. These issues are timely and of great importance to the general public.

4. At the time of the court's denial Petitioner was not aware of several cases pending in the Supreme Court and lower appeal court jurisdictions, the cases of Marshall v. Marshall, 547 U.S. _____ (2006)(decided May 1, 2006), Davani v. Virginia Department of Transportation, et al, 434 F.3d 712 (4th Cir. 2006), Lance et al v. Gigi Dennis, Colorado Secretary of State 546 U.S. ____ (2006), 126 S. Ct. 1198, 163 L.Ed. 2d 1059, Hernandez v. City of Pomona et al, (Cert. For publication copy Apr. 11, 2006, case B182437, Cal. Second Appellate Dis., Div. 7), and Ingram v. Hays, 866 F.2d 368 (11th Cir 1988). The cases listed above are of great importance to this action and they have many similar or related issues. The cases should be allowed to be argued in this court or briefed or used to remand back to lower courts for further litigation.

5. The cases above contain several crucial factual and procedural issues that warrant review by this court, they are as follows:

A. In the case of Bonnie Hernandez, as co-administrator, et al v. City of Pomona et al, (Cert. For publication copy Apr. 11, 2006, case B182437, Cal.

Second Appellate Dis., Div. 7), plaintiff first brought a in the lower federal court on the same set of facts and against the same defendants. Federal court rendered a judgment in favor of the defendants. Therefore, Bonnie Hernandez filed a second negligent action in state court against the City of Pomona, Pomona Police Officers. In state court, the same defendants were found negligent based upon the same set of facts.

California courts disregarded the concept of collateral estoppel.

As it states in note 1 on page 2; 42 U.S. Code, section 1983: Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or Territory or District of Columbia, subject or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges or immunities secured by the constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress".

THE DOCTRINE OF RES JUDICATA AND
COLLATERAL ESTOPPEL DOES NOT BAR
PLAINTIFFS' ACTION IN ANY COURT AGAINST
DEFENDANTS NOR THE ROOKER-FELDMAN
DOCTRINE.

In the above entitled action, petitioner claimed the defendant's failed to give plaintiff his full constitutional rights, lower courts failed to administer the law governing the State of California, failed to appoint a guardian ad litem and failed to make decisions on all the causes of actions, etc in plaintiff's case. Defendant's ignored plaintiff's procedural due process rights as in the federal Ingram case, these rights were critical. These acts rendered a void judgment. Plaintiff's constitutional rights were never decided in state court and at best, if considered was merely dictum to the decided issues.

Further more, when plaintiff was denied his Procedural Due Process Rights, allowed fraud, theft of his US Mail, defendants cause great harm to plaintiff. Plaintiff should be free from injury to his person, mental and physical health, Agarwal v. Johnson (1979) 25 Cal. 3d 932,

Rooker-Feldman Doctrine nor does res judicata and collateral estoppel bar the plaintiff from filing his complaint in federal court, because he is not claiming that the courts decision itself caused him harm. But plaintiff alleges that the defendants action and failure to give him his legal rights, along with committing tort action against petitioner caused him harm, see page 2, notes 1.

Base upon the decision in this case, the court remanded the case back to lower courts.

B. In the case of Marshall v. Marshall (Cited as 2006 DJDAR 5171, May 2, 2006)(Anna Nicole Smith),

This case has several crucial points which are in the case at bar. This addressed issues like, the Supreme Court has jurisdiction to hear matters arising out of a divorce, when the proceeding have elements of tortious interference claim. Only divorce, alimony and child custody remain outside federal jurisdiction. Therefore, this court has jurisdiction to hear, or make its own motion on the issues at hand, such as tort act, fraud, misleading or misrepresenting the facts to the court of the issues at hand, breach of

contract or contracts, criminal act like the theft of US mail, etc, see page 5172.

As it is pointed out that tortious action in courts like probate, family law can be heard in civil courts and courts of appeals. Especially federal when the lower courts fail to enforce the law(s), fail to litigate a cause of action that violates a party's Constitutional rights, see page 5173.

This case was reversed and remanded.

C. In the case of Davani v. Virginia Department of Transportation, 434 F.3d 712 (4th Cir. 2006), plaintiff filed suit in federal district court for discrimination. The appellee's moved to dismiss on the grounds that federal court lack jurisdiction under the Rooker-Feldman Doctrine.

In the Fourth Circuit decided the Exxon Mobile Corp. v. Saudi Basic. Corp. 544 U.S. 280, 125 S.Ct. 1517, 161 L.Ed. 2d 454 (2005). The court interpretation of the Rooker-Feldman Doctrine only pertain to state court losers who claim that the state court judgment cause the injury itself, not some other tort or denial of their constitutional rights. Therefore, Rooker-Feldman does not bar the plaintiff in this case, because he is seeking to redress the

wrong doing of the appellees, see page 713.

This case also addressed the issue of “inextricably intertwined” with the state judgment. The concluded that plaintiff’s federal suit was proper, not inextricably intertwined, because plaintiff sought redress of the defendant’s violation of his legal rights and not seeking to challenge the state courts decision, Washington, 407 F.3d at 280.

This case also revised and remand.

D. In the case of Lance v. Dennis, (2006) 163 L.Ed. 2d 1059, 546 U.S. _____, 126 S. Ct. 1198, the case emphasize the narrowness of the Rooker-Feldman Doctrine citing Exxon Mobile 544 U.S. at 287 for dismissal of an action for want of jurisdiction. The Exxon Mobile shows that the lower courts have extended the Rooker-Feldman Doctrine far beyond the narrow doctrine it was originally, see page 1065.

On page 1067, Justices Ginsburg and Souter stated the following in part:

“... Justice Brennan in 1983 was incorrectly decided and generated a plethora of confusion

and debate ...”

The District Court judgment was vacated and remand for further proceedings.

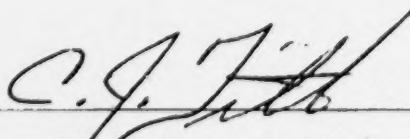
6. A rehearing review of the cases listed above in this petition should be closely reviewed and compared to the case at bar. They have remarkable similarities to each other for granting a reversal of the lower courts denial or dismissal in this case. A review and granting of a writ of certiorari is a matter of fundamental fairness to petitioner and would not unduly burden the court.

CONCLUSION

For the reason stated above, Petitioner Charles J. Tittle urges that this petition for rehearing be granted, and that, on further consideration, the petition for Certiorari be granted or denial be overturned and this case be set for legal argument in the lower court, also allowing parties to amend their moving papers.

May 12, 2006

Respectfully Submitted

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CHARLES J. TITTLE, In Pro Se